



REPLY TO  
ATTENTION OF

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

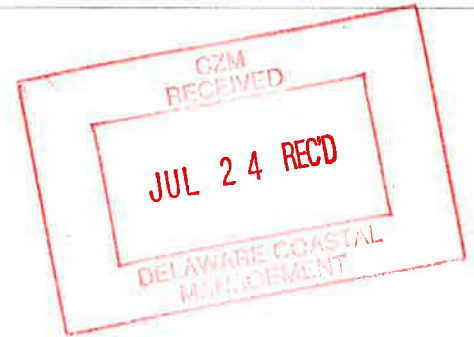
**DEPARTMENT OF THE ARMY**

PHILADELPHIA DISTRICT CORPS OF ENGINEERS  
WANAMAKER BUILDING, 100 PENN SQUARE EAST  
PHILADELPHIA, PENNSYLVANIA 19107-3390

**JUL 20 2017**

Regulatory Branch  
Application Section I

SUBJECT: CENAP-OP-R-2016-180-85 (Initial Proffered IP)  
Project Name: Rehoboth Beach Ocean Outfall SX  
Location: Lat. 38.71368°N/Long.-75.0807°W



Mr. Sean Snow  
GHD, Inc.  
16701 Melford Boulevard, Suite 330  
Bowie, Maryland 20715

Dear Mr. Snow:

Enclosed are an original and a copy of a draft Initial Proffered Department of the Army permit (Enclosures 1 and 2) which will authorize the applicant, the City of Rehoboth Beach identified to install a wastewater outfall pipeline and diffuser via directional drilling and mechanical or hydraulic dredging in the Atlantic Ocean east of Deauville Beach, Rehoboth Beach, Sussex County, Delaware.

Please review all conditions contained in the draft permit and, if they are acceptable to you, sign both copies of the permit and return with them project plans to this office.

This letter contains an initial proffered permit for your activity. If you object to this permit decision because of certain terms and conditions therein, you may request that the permit be modified accordingly under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) and Request for Appeal (RFA) form (Enclosure 3). If you object to this permit decision, you must submit a completed RFA form to the Philadelphia District Office at:

Michael D. Yost  
U.S. Army Corps of Engineers  
Philadelphia District  
ATTN: CENAP-OP-R  
Wanamaker Building, 100 Penn Square East  
Philadelphia, PA 19107-3390

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been

received by the District Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by SEP 20 2017.

It is not necessary to submit an RFA form to the District Office if you do not object to the permit decision in this letter.

Please bear in mind that the permit is not valid until the permit is validated by this office. A self-addressed envelope (Enclosure 4) is enclosed for your convenience. You will be furnished with the original copy of the permit after it is validated.

Failure to return the permit documents along with the approved project plans within 60 days of the date of this letter will result in your application being withdrawn without prejudice. Also enclosed is a pre-addressed postal card (Enclosure 5) soliciting your comments on the processing of this permit. Any comments, positive or otherwise, on the procedures, timeliness, fairness, etc., may be made on this card. You may forward your comment card along with the signed draft permit in the pre-addressed envelope provided.

Additional information concerning this permit may be obtained by writing to Michael Yost at the above address, by email at [michael.d.yost@usace.army.mil](mailto:michael.d.yost@usace.army.mil) or by calling (267) 240-5278.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward E. Bonner", written in a cursive style.

Edward E. Bonner  
Chief, Regulatory Branch

Enclosures

**Copies Furnished:**

DDNREC, CZM

DDNREC, Wetlands and Subaqueous Lands (Dover, DE)

CENAP-OP-RD (Yost)

City of Rehoboth

229 Rehoboth Avenue

Post Office Box 1163

Rehoboth Beach, Delaware 19971



PROVISIONAL PERMIT

NOT VALID

DO NOT BEGIN WORK

This PROVISIONAL PERMIT is NOT VALID until:

1. You obtain a Section 401 Water Quality Certification and/or Coastal Zone Management consistency determination concurrence from the Delaware Department of Natural Resources and Environmental Control.
2. You sign and return **BOTH** copies of the enclosed provisional permit with the State Section 401 Water Quality Certification and/or Coastal Zone Management consistency determination concurrence.
3. The Corps signs the permit and returns it to you.

Your permit is denied without prejudice, if the State denies your Section 401 Water Quality Certification and/or nonconcurs with your Coastal Zone Management consistency determination.

DO NOT BEGIN WORK

## DEPARTMENT OF THE ARMY PERMIT

### PERMITTEE AND PERMIT NUMBER:

PERMITTEE: City of Rehoboth Beach  
CENAP-OP-R-2016-180-85

### ISSUING OFFICE:

Department of the Army  
U.S. Army Corps of Engineers, Philadelphia District  
Wanamaker Building - 100 Penn Square East  
Philadelphia, Pennsylvania 19107-3390

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**PROJECT DESCRIPTION:** Install a wastewater outfall pipeline and diffuser via directional drilling and mechanical or hydraulic dredging in the Atlantic Ocean east of Deauville Beach, Rehoboth Beach, Sussex County, Delaware. The proposed pipeline alignment begins at the existing Rehoboth Beach Waste Water Treatment Plant, follows the Lewes and Rehoboth canal north to Grove Park. The pipeline will then turn northeast to Henlopen Avenue and continue along Henlopen Avenue to the Deauville Beach parking area and terminate in the Atlantic Ocean, approximately 6,000 linear feet from the parking area. The twenty-four (24) inch high density polyethylene (HDPE) or polyvinyl chloride (PVC) pipeline would be directionally drilled approximately 3,000 linear feet, eight (40) feet below the ocean substrate. At this point, a mechanical or hydraulic dredge would excavate an eight (8) feet deep trench for the remaining 3,000 linear feet. Once the pipe is anchored in place with concrete collars, the trench would be backfilled with 2.5 feet of soil, 4 feet of ballast stone, followed by 1.5 feet of the native substrate. The terminus of the outfall pipe will consist of a 125 linear feet diffuser comprised of 10 risers, 3 feet above the ocean substrate, with 4 ports per riser. The elevation of the risers will be approximately -36 MLW. The diffuser will be installed on pilings to ensure stability. All work is to be completed in accordance with the attached plans.

**PROJECT LOCATION:** 38 Henlopen Avenue Rehoboth Beach, Sussex County, Delaware  
Tax Map Parcels 3-34-14.09-215.00 (Lat. 38.71368°N/Long.-75.0807°W).

## PERMIT CONDITIONS:

### General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2020. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

### Special Conditions:

1. All work performed in association with the above noted project shall be conducted in accordance with the project plans dated June 2016, entitled: *CITY OF REHOBOTH BEACH, DELAWARE OCEAN OUTFALL PROJECT, PROJECT NUMBER: 2017-001 PERMIT SUBMITTAL*, 23 sheets.
2. Construction activities shall not result in the disturbance or alteration of greater than 7 acres of waters of the United States.
3. Any deviation in construction methodology or project design from that shown on the above

noted drawings must be approved by this office, in writing, prior to performance of the work. All modifications to the above noted project plans shall be approved, in writing, by this office. No work shall be performed prior to written approval of this office.

4. This office shall be notified at least 10 days prior to the commencement of authorized work by completing and signing the attached *Notification/ Certification of Work Commencement Form*. This office shall also be notified within 10 days of the completion of the authorized work by completing and signing the attached *Notification/Certification of Work Completion/Compliance Form*. All notifications required by this condition shall be in writing and shall be transmitted to this office by registered mail. Oral notifications are not acceptable. Similar notification is required each time maintenance work is to be done under the terms of this Corps of Engineers permit.

5. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. (This special condition is applicable to Corps of Engineers permits that provide authorization under Section 10 of the Rivers and Harbors Act of 1899.)

6. The Special Conditions imposed by the Delaware Department of Natural Resources and Environmental Control (DDNREC) on your DDNREC Section 401 WQC and/or DDNREC CZM concurrence shall also be conditions to this Department of the Army permit.

7. Representatives of the U.S. Army Corps of Engineers shall be permitted to inspect the project during its phase of construction, and to collect any samples, or to conduct any tests deemed necessary.

8. The permittee is responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.

9. Prior to construction, the permittee shall obtain a Real Estate instrument from the Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB-RE-C, P.O. Box 1715, Baltimore, Maryland (410) 962-4649. All work shall be performed in accordance with the terms and conditions of the Real Estate instrument.

10. That the fill material shall be free of oil and grease, debris, wood, general refuse, plaster, and other pollutants, and shall contain no broken asphalt.



11. In-water work shall be restricted from March 1 through September 30 in any year.
12. Piles shall be installed using a vibratory hammer to refusal utilizing a soft start method. If the use of an impact hammer is necessary, cushion blocks shall be utilized. The soft start method sequence is as follows:
  - a. Pile driving will commence for 15 seconds at half power, followed by a 1 minute wait period.
  - b. This shall occur 3 times before continuous pile driving at full power.
13. That the permittee acknowledges that all work is undertaken at their own risk; that this permit authorizes only the construction work specified; that a separate permit must be obtained from the Delaware Department of Natural Resources and Environmental Control under the terms of Section 402 of the Clean Water Act of 1972, to discharge from the authorized discharge pipe; that subject discharge permit application will be judged solely on its own merits; and that incorporation of any necessary changes resulting from review of the discharge permit application will be the sole responsibility of the permittee.
14. That construction of the pipeline will not interfere with safe navigation in the waterway. All construction work/procedures shall be coordinated with the U.S. Coast Guard and shall be subject of a Notice to Mariners issued by the U.S. Coast Guard. The District Engineer shall be provided with a copy of the construction procedures/schedule for pipeline installation.
15. Upon completion of the work, the permittee shall furnish the Corps and Department of Commerce, National Oceanic and Atmospheric Administration, Nautical Data Branch, N/CS261, Station 7331, 1315 East-West Highway, Silver Spring, Maryland 20910-3282, with certification that the pipeline has been installed in Compliance with the approved plans. The certification shall include a survey, conducted by a licensed surveyor, which clearly shows the elevation of the top of the pipeline and its alignment across the waterway. Any discrepancies shall be clearly identified/noted.
16. This permit does not obviate the permittee from obtaining any State or local assent required by law for the activity authorized.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- ☒ Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- ☒ Section 404 of the Clean Water Act (33 U.S.C. 1344).
- ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act.

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension,

modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

\_\_\_\_\_  
(PERMITTEE)

\_\_\_\_\_  
(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

\_\_\_\_\_  
(District Engineer)

\_\_\_\_\_  
(DATE)

Edward E. Bonner, Chief, Regulatory Branch

for Michael A. Bliss, P.E.  
Lieutenant Colonel, Corps of Engineers  
District Commander

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEREE)

\_\_\_\_\_  
(DATE)

